

The Securities and Exchange Commission (SEC) Adds Two New Significant Events for Municipal Securities Disclosure

Background:

For most municipal securities, the issuer (whether a city, county, school district, or utility) promises to provide certain financial and operating information to bond holders on an ongoing and annual basis. These disclosures can take the form of an issuer's audited financial statements or involve more detailed information. This is referred to as Continuing Disclosure and is governed by SEC Rule 15c2-12 ("the Rule"). As your Dissemination Agent, Northland Securities is committed to helping you ensure that all requirements set forth in the continuing disclosure agreements of each issue are satisfied. This also involves keeping up-to-date with any changes in the municipal securities market.

New Events 15 and 16:

The SEC has recently adopted two new additions to the list of events that may require disclosure, if material, under the Rule. According to an SEC news release, the aim in adding these two events is to "focus on material financial obligations that could impact an issuer's liquidity, overall creditworthiness, or an existing security holder's rights."

With the two additions, the list of events under the Rule totals 16. We will refer to the two new events as Event 15 and Event 16. Most issuers will be familiar with the most common material events, such as rating changes and bond calls. When a material event occurs, the issuer has 10 business days to file a notice on the Electronic Municipal Market Access (EMMA) website. The two new events are under the same 10-day notification deadline.

Event 15 addresses any financial obligation entered into by the issuer. The SEC defines "financial obligation" in three ways: (i) a debt obligation, (ii) derivative instrument entered into in connection with ... an existing or planned debt obligation, or (iii) a guarantee of either (i) or (ii). The term "financial obligation" shall not include municipal securities for which an Official Statement has been provided [on EMMA] consistent with the Rule. Some common examples of financial obligations defined in Event 15 are direct loans from banks, state revolving fund loans, USDA loans, and lease agreements that operate as vehicles to borrow money.

The SEC defines Event 16 as "default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the obligated person, any of which reflect financial difficulties." Any financial obligation that would require disclosure under Event 15 needs to be monitored for any events that would "reflect financial difficulties." An important detail of the SEC's definition of Event 16 is that it applies to all outstanding financial obligations regardless of when they were incurred. For example, an event of default on an outstanding financial obligation would need to be filed on EMMA even if that financial obligation was incurred prior to this new change in the Rule.



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What it means for Municipal Issuers:

Prior to the changes, issuers could enter into loan agreements, leases, or other private transactions for financial obligations without the knowledge of bondholders. Effective February 27, 2019, any continuing disclosure agreements for a new municipal security offering will include the two new events. This means that issuers will need to be aware of what their current and new financial obligations are and whether a financial difficulty develops that would be considered material.

If you have questions or are unsure about how to determine if Event 15 and/or 16 are applicable, please be sure to contact us so that we can discuss with you what actions, if any, need to be taken.

Key Takeaways:

- Applies to bonds issued on or after February 27, 2019
- Notice is due within 10 business days of incurrence of a new financial obligation
- Notice is due within 10 business days of occurrence of a material event to a financial obligation that reflects financial difficulties
- Monitor current outstanding financial obligations for any possible financial difficulties
- Make Northland aware if you are entering into a new financial obligation

Additional Information:

- The Government Finance Officers Association listed a Member Alert relating to this change.
- The notice is available to view on the GFOA website: <http://www.gfoa.org/new-amendments-sec-rule-15c2-12-new-event-notices-related-material-financial-obligations-and-events>.



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